

**PLAN COMMISSION
VILLAGE OF DEERFIELD
Minutes**

The Plan Commission of the Village of Deerfield called to order a Remote Public Hearing via Zoom at 7:30 P.M. on April 8, 2021.

Present were: Larry Berg, Chairman
 Al Bromberg
 Jennifer Goldstone
 Elaine Jacoby
 Blake Schulman
 Bill Keefe
 Kenneth Stolman

Also present: Jeff Ryckaert, Principal Planner
 Daniel Nakahara, Planner
 Andrew Lichterman, Assistant Village Manager/Director of Community
 Development
 Benjamin Schuster, Associate Village Attorney

Chairman Berg reported that pursuant to amendments to the Illinois Open Meetings Act included in Public Act 101-0640, public bodies may hold virtual public meetings without a quorum physically present.

Chairman Berg stated that anyone wishing to share public comment any matter concerning the Village may do so by submitting an email to plancommissioncomment@deerfield.il.us prior to the meeting. Emails received will be read aloud during Public Comment. Any emails received during the meeting will be read during the second public comment before the end of the meeting. Chairman Berg asked that emailed response is limited to under 200 words to allow time for others to be heard and for the Plan Commission to progress through the public meeting agenda. In addition to written Public Comment, oral comments will also be permitted. Members of the public desiring to make an oral comment should click the “raise hand” button on Zoom or dial “*9” if participating by phone to indicate you wish to speak.” Chairman Berg stated that the Plan Commission typically does not immediately respond to public comments or engage in open dialogue, but they will actively listen to comments.

In accordance with the Open Meetings Act, at least one representative from the Village will be present at Village Hall and the virtual meeting will be simulcast at Village Hall for members of the public who do not wish to view the virtual meeting from another location. Pursuant to the Executive Order issued by the Governor, a limited number of people may gather at Village Hall for the meeting. Accordingly, the opportunity to view the virtual meeting at Village Hall is available on a first come, first-served basis. The Plan Commission will comply will all other requirements including public comment and posting the meeting agenda, which can be found on the Village website at www.deerfield.il/us/agendacenter.

Public Comment on a Non-Agenda Item

Mr. Ryckaert reported that there were no written comments from the public on a non-agenda

item received via email. Mr. Nakahara reported that there was no one requesting public comment on Zoom. Mr. Lichterman reported that there was no one present at Village Hall for public comment.

PUBLIC HEARING

1) Text Amendment to Clarify Short Term Rental Prohibition

Mr. Ryckaert reported that the legal notice for this matter was published in the Deerfield Review on March 11, 2021.

Mr. Lichterman reported that as discussed at the February 25, 2021 Plan Commission meeting, short term rentals are currently prohibited in Deerfield as they are not a permitted use or a special use in any of the zoning districts. Staff and the Village Board recommend adding this prohibition to the Zoning Ordinances to remove any ambiguity and codify this current policy and practice. The proposed definition in the memo defines short term rentals to be part or all of a dwelling unit that is rented for less than 30 consecutive days. The exemptions to this are for hotels, dwellings that are rented for business purposes, and rentals associated with a contract to sell the property.

Mr. Lichterman stated that there were some questions raised by the Commission to ensure that the definition did not expose the Village to any loopholes or unintended consequences. These were discussed with Village counsel and at this time staff recommends approval of the definition as proposed. The question was if there was not a short term lease, but a license agreement to use a property in the same manner. There is additional language offered regarding this if it makes the Commission more comfortable. However, staff and the Village counsel are confident that, as proposed, it is broad enough to cover both short term leases and licenses. Mr. Lichterman further explained that there were questions about the penalties and provisions as it relates to a violation of the policy. Staff recommends not adding additional language for a penalty as broad penalty language already exists in the Zoning Ordinances. Each day that a violation occurs will be a separate offense with fines. There was also a question from the Commission about allowance for a lease back in conjunction with a real estate transaction. The language provided would allow for pre-closing and post-closing possession. And finally, there was some discussion of potentially adding regulating to allow certain exemptions to the prohibition. Mr. Lichterman stated that the Prefiling Conference staff memo listed possible regulations if certain exemptions were allowed to occur. However, at this time staff recommends adding the short term rental definition as proposed and once the definition is added to the Zoning Ordinances the topic can be revisited to consider adding it as a special use.

Village Attorney Mr. Schuster stated that the genesis of this is in part based on a recommendation from their office. They had discussed with staff on the topic of short term rentals and whether and they are permitted or not as short-term rentals are not currently defined in the code. The policy in practice is that it is prohibited because it is not stated as a permitted use or a special use. Adding this definition would provide a good answer to the question and ensure that if someone violated this the Village would have avenues that would hold up in court and there will be no more ambiguity. Mr. Schuster stated that this is less about a policy decision and more to gain clarity in the code to have something on the books moving forward. However, if the Commission desires a broader discussion of how to regulate short term rentals if they were allowed that can happen in the future. Putting that aside, it is prudent to add a definition to the Zoning Ordinances so that the current ambiguity is clear.

Chairman Berg agreed that this is not a policy decision; it is for clarification in the code to avoid problems down the road. The Village should avoid the possibility of someone arguing it and leaving it up to a judge in court because it was not as clear as it could be. It also carves out the exceptions and codifies what the current policy in practice is. Chairman Berg asked for questions and comments from the Commission.

Commissioner Bromberg stated that he agrees with the language as proposed and is in favor of moving forward. He added that he recalls that several years ago the City of Chicago was in the running to host the Olympics. And if there should be a massive event such as this people may want to get out of town and there could be opportunity to rent their houses. Commissioner Bromberg stated that he wondered how something such as this could be handled. Mr. Schuster replied that as it is currently drafted this would not be allowed. One option to allow short term rentals for one large event such as this would be to amend the code in advance and state specific dates as an exception to the prohibition. Other options would be to state in the code that it is prohibited except for a certain number of days per year or to list it as a special use that can be petitioned for. These options can be explored by the Commission in the future if desired. Some things to keep in mind would be how the Commission would handle it if they had 50 or more special use applications.

Commissioner Keefe stated that he agrees with the language proposed and he is in favor of prohibiting short term rentals in Deerfield. His view is that they are not desirable for Deerfield and he would also not be in favor of short term rentals for large events.

Commissioner Jacoby stated that the Commission's job at this meeting is to approve a definition of short term rental to be added to the Zoning Ordinances and it is sufficient as proposed. Commissioner Stolman agreed.

Commissioner Schulman stated that he generally agrees that it is good to codify the intent and the policy. He commented that in the proposed language a short term rental is less than 30 days, and people sometimes do leases by the month and the month of February is shorter than 30 days. Mr. Schuster replied that this could be changed from 30 days to 28 days or to four weeks if desired. He added that the 30 days comes out of case law in Illinois. It was a zoning issue as communities in Illinois in the past have tried to zone out apartment living in favor of home ownership. This case law states that you cannot make a distinction between ownership and leasing from a zoning perspective as the use is the same. One distinguishing factor in this is that short term rentals of less than 30 days are a different type of use as it is more transient. If a lease is less than 30 days than a municipality is allowed to regulate it. This is where the 30 days comes from. Commissioner Schulman also commented that while he does not want people to buy homes in Deerfield just to rent them out, he does feel that there should be more exceptions. He commented that Deerfield residents may wish to rent their homes out while traveling and he does not like that government can take property rights and say what people can and cannot do with their properties and investments. He believes that the short term rental prohibition should include an exception to allow for it once a year. If this exception is not listed, it puts the burden on the resident to come before the Village to petition for this which will take time.

Commissioner Goldstone stated that she likes the idea of having this in the Zoning Code and is in favor of adding the language to define a short term rental as whether by license, leasehold, or any other similar arrangement. She is also in favor of at some point in the future having a

mechanism where residents can petition for approval for a short term rental in an extenuating or unusual circumstance. However, she would like it to move forward as proposed and not prolong adding this to the Zoning Code.

Chairman Berg stated that the Commission will provide a recommendation to the Village Board where they can recommend codifying this definition for clarity. And they can also provide comments for the Board's consideration. Mr. Schuster added that the Plan Commission is a recommending body, and they can phrase the recommendation how they please. For example, the Commission can recommend approving the language as proposed or with added language and can add the recommendation that the Board consider making short term rentals a special use or allowing them as a one-time per year exception.

There were no comments from the public on this matter.

Chairman Berg stated that the Plan Commission has concluded public testimony and will deliberate their recommendation on this matter. He stated that this portion of the meeting is open to the public, but no new testimony will be taken unless requested by the Commission. He stated that the Plan Commission is a recommending body, a written recommendation will be forwarded to the Village Board of Trustees who will take final action on this matter.

Commissioner Keefe commented that he supports the language suggested. He clarified that at this time the definition will be added and down the road an ordinance can potentially also be added to prohibit short term rentals or allow them on some level with regulation. Mr. Schuster stated that the reason this definition is now being added is that the code states that unless a use is permitted or a special than it is prohibited, and short term rentals is not stated in the definitions section of the Zoning Code. It will be added to clarify this so that if someone looked up their zoning district and what is allowed, it will not list short term rental. At some point in the future the Village can adopt an ordinance to allow short term rentals with regulations if desired, but at this time the definition as is suffices for the policy goal.

Commissioner Jacoby reiterated that the Commission's job is to add the definition and in the future the use can be addressed further. She supports the definition as proposed.

Commissioner Schulman stated that he is not in favor of the language as drafted as he would like additional exceptions to be added.

Commissioner Goldstone moved, seconded by Commissioner Jacoby to approve the text amendment, as proposed, to clarify the short term rental prohibition but that the Village Board give further consideration to including language that would:

1. allow a one time per year exception for a short term rental;
2. clarify the prohibition also applies to a license, leasehold or any other similar arrangement; and,
3. allow a short term rental as a Special Use to allow residents to come before the Village for land use approval.

The motion passed with the following vote.

Ayes: Jacoby, Stolman, Bromberg, Goldstone, Keefe, Berg (6)

Nays: Schulman (1)

Mr. Ryckaert reported that this matter will go before the Village Board on May 3, 2021.

Document Approval

- 1) March 25, 2021 Plan Commission Minutes

Commissioner Goldstone provided a clarification to the minutes. Commissioner Bromberg moved, seconded by Commissioner Schulman to approve the minutes with the clarification. The motion passed with the following vote.

Ayes: Schulman, Keefe, Goldstone, Jacoby, Bromberg, Stolman, Berg (7)

Nays: None (0)

Items from the Staff

Mr. Ryckaert reported on upcoming Plan Commission agenda items. The next meeting will be April 22, 2021.

Public Comment

Mr. Ryckaert reported that there was no public comment received via email during the meeting. Mr. Nakahara reported that there was no one requesting public comment on Zoom. Mr. Lichterman reported that there was no one present at Village Hall for public comment.

Adjournment

There being no further discussion, Commissioner Bromberg moved, seconded by Commissioner Goldstone to adjourn the meeting at 8:07 P.M. The motion passed the following vote.

Ayes: Bromberg, Goldstone, Keefe, Jacoby, Schulman, Stolman, Berg (7)

Nays: None (0)

Respectfully Submitted,
Laura Boll